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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,298	02/02/2001	Ira D. Sasowsky	UA372	9202

26360 7590 01/20/2004

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AKRON, OH 44308

EXAMINER

BARRY, CHESTER T

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/776,298

Applicant(s)

SASOWSKY ET AL.

Examiner

Chester T. Barry

Art Unit

1724

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 01 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

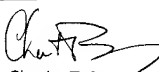
Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☒ Other: See Continuation Sheet

INTERVIEW SUMMARY

  
Chester T. Barry  
571-272-1152 direct  
Art Unit: 1724

Continuation of 2. NOTE: (a) Proposed Claim 1 - which now recites a "distributing" step not previously presented for examination - is a new issue requiring further consideration and search. Such further consideration would include a review of the specification to ascertain the meaning of "distributing" in this case. (c) In light of (a), reason (c) also applies. (d) Two new claims were presented, i.e., claims 12 and 13, without simultaneous cancellation of at least as many claims.


The Office regrets not having responded in advisory action form to the response filed 10/1/03 no later than the mailing of the Notice of Abandonment on 11/18/03. The omission was harmless, however, insofar as the 10/1/03 paper filed on the last day of the 6-month response period was not enterable for the reasons given above, and accordingly went abandoned immediately thereafter. The Notice of Abandonment, as its name suggests, merely gave notice of that fact.

Had a Request for Continued Prosecution been filed along with the 10/1/03 response and time extension, entry of the responsive paper would have taken place as a matter of right unconstrained by "new issue" or claim number questions, and this case would still be pending. Should applicants seek to continue prosecution of this case, they are urged to consider filing a petition to revive this abandoned application, if appropriate.

The paper filed 10/1/03 is not clearly identified as one filed under 37 CFR 1.116. Applicants are requested to clearly mark all after final papers as such to facilitate speedy treatment of the same.

Insofar as a change of correspondence address has not been received, this Advisory Action - like the Notice of Abandonment before - will be mailed to the Renner Kenner firm.

Continuation of 10. Other: copies of 4/1/03 final action, 116 response of 6/2/03, advisory of 6/17/03, response / time extension of 10/1/03.



CHESTER T. BARRY  
PRIMARY EXAMINER